erty of the life tenant, and the court here so decides. Accord: *Earp's Appeal,* 28 Pa. St. 368; *Hite's Devisee* v. *Hite's Executor,* 93 Ky. 257; *Pritchett* v. *Nashville Trust Co.,* 96 Tenn. 472; also see 12 L. R. A. N. S. 768. Upholding "Massachusetts" rule: *Minot* v. *Paine,* 99 Mass. 101; *Jackson* v. *Maddox et al,* Ann. Cas. 1912 B 1216;*Gibbons* v. *Mahon,* 136 U. S. 549. For an extended discussion of the question see 13 MICH. L. REV. 242.

TRESPASS—ANIMALS FERAE NATURAE—ATTRACTED TO PREMISES — DAMAGES TO ADJOINING PROPERTY—CAUSE OF ACTION.—Defendants, bone manure manufacturers, had a heap of bones on their premises, near the plaintiff's farm, for the purpose of their business. This caused a multitude of rats to assemble, and these very easily found their way onto the plaintiff's farm, resulting in the destruction of the plaintiff's crops. He now seeks compensation for losses thus sustained. It was not proved that the defendants' supply of bones was more excessive than in the past thirty years, or excessively large. *Held,* no cause of action had been established against the defendants. *Stearn* v. *Prentice Bros., Limited* [1919], 1 K. B. 394.

The court seems to have based its decision on the ground that the increase in the number of the rats in this year was not due to any acts or interference of the defendants, but merely to the fact that this was an exceptionally good breeding year. The plaintiff, though, tried to bring his case under the broad doctrine of *Rylands* v. *Fletcher* (1868), L. R. 3 H. L. 330—namely, that a landowner, who brings any agency onto his land which would not naturally come there, is liable in damages to his neighbors who are injured by the subsequent escapes of said agency. The case failed on this theory because it was not shown that the defendants brought the rats onto their premises, nor that they did any act which artificially increased the number of them naturally present. See *Brady* v. *Warren,* [1900], 2 I. R. 632, 659. If the damage was caused by some natural forces, and not by the acts of the defendants, then the defendants can not be held liable. *Giles* v. *Walker* (1890), 24 Q. B. 656; *Roberts et al* v. *Harrison,* 101 Ga. 773. To bring this case under the principle of *Rylands* v. *Fletcher* it is not enough to show merely that the rats came from the defendants' land; and the mere fact that the defendants neglected to kill them would probably not impose any liability. CLERK AND LINDSELL, LAW OF TORTS, 2nd ed., p. 387. Assuming that the plaintiff could show that the presence of the rats was a nuisance, and that it resulted naturally and proximately from the acts of the defendants in storing these bones, it seems that the plaintiff might have been more successful had he gone into equity for an injunction, as well as for damages for past injuries. It is true that the defendants probably acquired a prescriptive right to carry on their business as they had for the past thirty years; but is not true that they could maintain such a nuisance as resulted in this year from the presence of the rats. It is entirely consistent with the facts, so far as revealed, that the defendants had no prescriptive right to continue this nuisance, (*i. e.,* the presence of the rats), even though they had been in the same business for some thirty odd years. In order to establish such right the "use must be adverse, under a claim of right, and with the

knowledge and acquiescence of the person whose right is invaded, and the nuisance must be continued in substantially the same way and with equally injurious results for the entire prescriptive period." 29 Cyc. 1206 and cases cited. In the case in hand it appears that this was the first year that the plaintiff had suffered such damage, and it seems therefore that the defendant could have acquired no prescriptive right, because it was only at this time that the rats became a nuisance to the plaintiff. The burden of proof was on the defendants to prove their prescriptive right, and they had not done so. *Stamm et al.* v *City of Albuquerque,* 62 Pac. 973; *Ball* v. *Ray,* L. R. 8 Ch. 467. In the absence of such prescriptive right in the defendants equity would most likely give the plaintiff equitable relief, as in *Bellamy* v. *Wells* (1890), 63 L. T. R. 635; *Rex* v. *Moore* (1832), 3 B. and Ad. 184; *Walker* v. *Brewster* (1887), L. R. 5 Eq. 25; *Bland* v. *Yates* (1914), 58 Sol. J. 612; *Richards* v. *Daugherty,* 133 Ala. 569.

Unfair Competition — Federal Trade Commission — Constitutional Law.—A restraining order was issued by the Federal Trade Commission restraining the petitioner, a mail-order house doing an interstate business, from certain unfair practices in connection with the sale of sugar and other staple commodities and restraining the sale of such articles below cost. In a petition to review the order, petitioner contends that the order was improvidently issued because the petitioner had discontinued such methods, and that the act creating the Commission was unconstitutional. *Held,* the order was warranted, but that it should be modified so as not to prohibit sales below cost. *Sears, Roebuck and Co.* v. *Federal Trade Commission* (C. C. A., 7th Circ., 1919), 258 Fed. 307.

No inflexible rule can be laid down as to what conduct will amount to unfair competition. *Ludlow Valve Mfg Co.* v. *Pittsburg Mfg. Co.,* 166 Fed. 26, 92 C. C. A. 60. Unfair competition is always a question of fact. *Higgins C.* v. *Higgins Soap Co.,* 144 N. Y. 462; *Howe Scale Co.* v. *Wychoff, Seamans and Benedict,* 198 U. S. 118. The court in the principal case said that petitioner's conduct in representing that it had obtained special price concessions and could sell much cheaper than their competitors and that it purchased selected brands from abroad, when in fact it had not so done, were means of wrongfully imputing improper conduct to its competitors and consequently was unfair competition. In view of the advertisements published by petitioner such construction seems justifiable. The fact that petitioner had discontinued such practice will have no influence unless the circumstances are clear that the petitioner will not resume such practices. *Goshen Mfg. Co.* v. *Myers Mfg. Co.,* 242 U. S. 202, 37 Sup. Ct. 105, 61 L. Ed. 248. The Commission, it is true, has administrative and quasi-judicial functions. Orders of the Commission are mandatory and have the force of judgments until reversed. The combinations of power so dissimilar, and each so far-reaching creates a department which is unique in federal legislation. However grants of similar authority to administrative officers and bodies have not, as the court points out, been found repugnant to the constitution. *Buttfield* v. *Stranahan,* 192 U. S. 470, 24 Sup. C. 349, 48 L. Ed. 525; *Union Bridge Co.* v. *United*